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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,274	12/16/2004	Andrew J. M. Wishart	GB 020097	3514
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			EXAMINER CHAUHAN, LOREN B	
			ART UNIT 2193	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/518,274

Applicant(s)

WISHART ET AL.

Examiner

Loren Chauhan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

1. Claims 1-23 are pending for examination.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 11-23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

- a. As to claims 11-23, the claims are directed to a system but the body of the claims is mere "*software per se*". Applicant is advised to incorporate "*processor or computer*" to fix the deficiency.

Claim Objections

4. Claims 1-23 are objected to because of the following informalities:
 - b. Examiner notes the use of "CE" acronyms in above claims. Use of acronyms in claim language should be explained in plain text. Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-3 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Heath (US Pat. No. 6,006,034).

7. As per claim 1, Heath teaches the invention as claimed including a method for managing differing software configurations of a plurality of CE devices communicate with a server a network (col. 4, lines 19-21) wherein each CE device includes an identifier identifying that device to the server; the server having access to storage means storing configuration record associated with the identified CE device; the configuration record comprising data indicating the software currently installed on the identified CE device and optional software available to that CE device (col. 1, lines 55-60, 62-64), said method comprising:

selecting a plurality of software options (64, 66,68) for download to the CE device (10, 10a) at least partly by reference to the configuration record (70) associated with the device identifier (col. 1, line 62-col. 2, line 5);

providing said software options to the device (10, 10a) for download over the network (32) (col. 2, lines 15-20; col. 5, lines 3-5);

and updating the associated configuration record (70) for that device in dependence on the download of at least one of the software options by the CE device (col. 3, lines 7-16).

8. As per claim 2, Heath teaches the invention as claimed including wherein the device identifier (18) comprises information relating to CE device type (18a) and information (18b) uniquely identifying that device (col. 5, lines 17-20).

9. As per claim 3, Heath teaches the invention as claimed including wherein the selection of optional software available for download to the CE device is determined partly by device type information (18a) in the identifier (18) (col. 5, lines 41-50).

10. As per claim 11, is a system claim of claim 1, therefore; it is rejected for the same reason as per claim 1 above.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 1-3, 8-12, 14 and 16-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heath (US Pat. No. 6,006,034) in view of Barritt (US PG-Pub. No. 2002/0124065).

13. As per claim 1, Heath teaches the invention substantially as claimed including a method for managing differing software configurations of a plurality of CE devices communicate with a server a network (col. 4, lines 19-21), said method comprising:

selecting a plurality of software options (64, 66,68) for download to the CE device (10, 10a) at least partly by reference to the configuration record (70) associated with the device identifier (col. 1, line 62-col. 2, line 5);

providing said software options to the device (10, 10a) for download over the network (32) (col. 2, lines 15-20; col. 5, lines 3-5);

and updating the associated configuration record (70) for that device in dependence on the download of at least one of the software options by the CE device (col. 3, lines 7-16).

14. Heath does not explicitly teach wherein each CE device includes an identifier identifying that device to the server; the server having access to storage means storing configuration record associated with the identified CE device; the configuration record comprising data indicating the software currently installed on the identified CE device.

15. Barritt teaches wherein each CE device includes an identifier identifying that device to the server; the server having access to storage means storing configuration record associated with the identified CE device; the configuration record comprising data indicating the software currently installed on the identified CE device and optional software available to that CE device (page 3 [0059]).

16. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teachings of Heath and Barritt so that server can obtain necessary updated software for the clients whose software are not updated.

17. As per claim 2, Heath teaches the invention as claimed including wherein the device identifier (18) comprises information relating to CE device type (18a) and information (18b) uniquely identifying that device (col. 5, lines 17-20).

18. As per claim 3, Heath teaches the invention as claimed including wherein the selection of optional software available for download to the CE device is determined partly by device type information (18a) in the identifier (18) (col. 5, lines 41-50).

19. As per claim 8, Heath teaches wherein the download of at least one of the software options performs a software upgrade in dependence on user input (26)

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(col. 6, lines 11-13). However, Heath does not explicitly teach restore or roll back in dependence on user input.

20. It would have been obvious to one of ordinary skill in the art to add restore and roll back function to Heath's system so that after upgrade if the software is not functioning properly it can be restored to its previous version by user's intervention.

21. As per claim 9, Barritt teaches wherein the configuration record (70) is stored in a database (46) comprising a plurality of 20 configuration records, each record being identified with a CE device (10, 10a) (page 3 [0059] lines 1-5).

22. As per claim 10, Heath teaches wherein the configuration records (70) comprise link data (72) referencing software download locations (48, 50) (col. 5, lines 24-27).

23. As per claim 16, Heat teaches the device comprising ID memory means (14) for storing a device identifier (18), storage means (16) for storing software, input means (24, 26) for receiving input and processing means (12) for processing said software, the device being operable to receive downloads according to a configuration record (70) across a network (32) (col. 1, lines 5-10).

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24. As per claims 19-20, Heath does not explicitly teach providing a program code provided on a carrier and executed by processing means.

25. However, Heath teaches the method and it is noted at the time of the invention was made to provide a program code based on the method so that implementation of that method can be executed by the computer.

26. As per claims 11-12, 14, 16-18 and 21-23, they are the system claims of claims 1-3, therefore; they are rejected for the same reason as per claims 1-3 above.

27. Claims 4-5, 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heath (US Pat. No. 6,006,034) in view of Barritt (US P.G-Pub. No. 2002/0124065) and further in view of Beyda (US Pat. No. 5,870,610).

28. As per claim 4, Heath and Barritt do not explicitly teach wherein the download of at least one of the software options by the CE device occurs automatically in response to an error status indicated by the CE device (10,10a) to the server (40).

29. Beyda teaches the download of at least one of the software options by the CE device occurs automatically in response to an error status indicated by the CE device (10,10a) to the server (40) (col. 4, lines 18-20).

30. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teachings of Heath, Barritt and Beyda so that automatic update of the out of date software and/or troubling software can be done without or with minimum user interaction.

31. As per claim 5, Beyda teaches the method wherein the software automatically downloaded in response to an error status (90) is selected according to determining criteria (98) (col. 4, lines 18-27).

32. As per claims 13 and 15, they are the system claims of claims 4-5, therefore; they are rejected for the same reason as per claims 4-5 above.

33. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heath (US Pat. No. 6,006,034) in view of Barritt (US PG-Pub. No. 2002/0124065) further in view of Beyda (US Pat. No. 5,870,610); and in further view of Lodrige (US Pat. No. 6,961,874).

34. As per claim 6, Heath teaches selecting software in dependence on the configuration record (col. 1, lines 55-60, 62-64).

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35. Lodrige teaches the determining criteria relate to the frequency of error status indications by the CE device, the frequency data (80) collected (col. 5, lines 51-53, 59-62).

36. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teachings of Heat and Lodrige so that only software which are corrupt and/or out dated can be downloaded and updated to its new version.

37. As per claim 7, Heath teaches wherein the selected software performs an automatic upgrade of the software indicated within the configuration record (col. 5, lines 40-50). However, Heath does not explicitly teach restore or roll back.

38. It would have been obvious to one of ordinary skill in the art to add restore and roll back function to Heath's system so that after upgrade if the software is not functioning properly it can be restored to its previous version.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Loren Chauhan whose telephone number is 571-270-1554. The examiner can normally be reached on Mon.-Thr. 9:30-5:00 (EST).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on 571-272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Loren Chauhan
Examiner
Art Unit 2193

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TUAN VU
PRIMARY EXAMINER

1/17/08